

DIRECT TESTIMONY

OF

ROY A. KING

**WATER DEPARTMENT
FINANCIAL ANALYSIS DIVISION**

ILLINOIS COMMERCE COMMISSION

**CITIZENS UTILITIES COMPANY OF ILLINOIS
d/b/a CITIZENS WATER RESOURCES**

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ILLINOIS
COMMERCE COMMISSION

1 **Q. Please state your name and business address.**

2 A. My name is Roy A. King. My business address is 527 East Capitol Avenue,
3 Springfield, Illinois, 62701.

4
5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by the Illinois Commerce Commission (Commission) as a
7 Water Engineer in the Water Department of the Financial Analysis Division
8 (FAD).

9
10 **Q. How long have you been employed by the Commission?**

11 A. Since August of 1979.

12
13 **Q. Will you please briefly state your qualifications?**

14 A. I graduated from Chicago Technical College in 1970 with a Bachelor of
15 Science degree in Architectural Engineering.

16
17 Q. From 1970 to May 1979, I served with the U.S. Navy. My assignments
18 included those of Maintenance Supervisor, Instructor, Counselor for a
19 Drug and Alcohol Program, and managing a division of 30 men and its
20 related equipment. Since August 1979, I have been continuously
21 employed by the Commission. Until mid-1982, I was assigned to the
22 Public Utilities Division, Engineering Department, Gas and Electric Section

23 as a Utility Engineer. My duties were to assist the Chief Gas Engineer
24 and the Chief Engineer in the administration of all engineering matters
25 associated with the regulation of privately owned gas and electric utilities
26 in the State of Illinois. During this period, my duties included (1)
27 evaluating rate filings and rules and regulations filings, (2) assisting the
28 Consumer Services Division, upon request, in handling investigations and
29 correspondence relating to electric and gas inquiries and complaints, (3)
30 evaluating testimony presented by the utilities and conducting cross-
31 examination, (4) testifying on behalf of Staff in applications for Certificates
32 of Convenience and Necessity (Certificates), rate proceedings and other
33 formal cases which contain issues requiring review by the Engineering
34 Department, and (5) processing other work as directed by the Chief
35 Engineer.

36
37 In 1982, Staff functions were reorganized and I was assigned to the Water
38 and Sewer Section within the Engineering Department. My duties were
39 very similar to those previously described, except that I worked on matters
40 associated with water and sewer utilities.

41
42 In November of 1992, engineering and rate matters for water and sewer
43 utilities were transferred to the Office of Policy and Planning (OPP) and I
44 was assigned to OPP. My duties include (1) evaluating rate schedule

filings, and rules and regulations filings, (2) assisting the Consumer Services Division, upon request, in handling inquiries and complaints, (3) evaluating testimony presented by the utilities and conducting cross-examination, (4) testifying on behalf of Staff in applications for Certificates, rate proceedings, and other formal cases which contain issues requiring review by OPP, and (5) reviewing cost-of-service studies for the water and sewer utilities when so assigned.

In 1997, Staff's functions were reorganized and I was assigned to the Rates Department within FAD (formerly Public Utilities Division). In 2000, Staff's functions were reorganized forming a Water Department and I was assigned to the Water Department. My duties are the same as those previously described.

Since being employed by the Commission, I have received an Associates Degree in Business Administration from Lincoln Land Community College, Springfield, Illinois, and in 1985, I received a Bachelor of Arts Degree in Management from the University of Illinois, Springfield (formerly Sangamon State University), Springfield, Illinois.

In addition, I have attended a number of courses regarding utility regulation, including several sponsored by the National Association of

67 Regulatory Utility Commissioners (NARUC). I completed a one-week
68 utility rate seminar co-sponsored by the NARUC Water Committee and the
69 University of Utah Center for Continuing Education. I have also completed
70 a course in Sewage Treatment Plant Operations, which was sponsored by
71 the Environmental Training Resource Center at Southern Illinois
72 University, and three courses in depreciation practices, which were
73 sponsored by Depreciation Programs, Inc.
74

75 **Q. Are you a member of any professional organizations?**

76 A. Yes, I am a member of the Illinois Potable Water Operator's Association,
77 Illinois Section of the American Water Works Association and American
78 Water Works Association.
79

80 **Q. Have you previously testified before the Illinois Commerce**
81 **Commission?**

82 A. Yes, I have previously testified before the Commission on numerous
83 issues related to my duties.
84

85 **Q. What is the purpose of this proceeding?**

86 A. Citizens Utilities of Illinois (Citizens or Company) has filed a petition for a
87 Certificate of Public Convenience and Necessity (Certificate) to provide

water and/or sanitary sewer service to various parcels located in DuPage and Will Counties, Illinois.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to determine whether Citizens has met the requirements of Section 8-406 of the Public Utilities Act (Act) and therefore should be issued a Certificate.

Q. Are you familiar with the testimony, and exhibits presented by Citizens?

A. Yes, I have personally reviewed the testimony and exhibits presented by Citizens.

Q. Please discuss the areas for which Citizens is requesting a Certificate.

A. Citizens are requesting water and sewer certificates for residential and commercial parcels in DuPage and Will Counties. These parcels are located in the following Citizen's Districts: West Suburban, DuPage, and Santa Fe.

Q. Please explain what the requirements are for a Utility to receive a Certificate to construct facilities and/or to provide service to an area.

A. Section 8-406 (b) of the Public Utilities Act, states in part:

"No public utility shall begin the construction of any new plant, equipment, property or facility which is not in substitution of any existing plant, equipment, property or facility or any extension or alteration thereof or in addition thereto, unless and until it shall have obtained from the Commission a certificate that public convenience and necessity require such construction. Whenever after a hearing the Commission determines that any new construction or the transaction of any business by a public utility will promote the public convenience and is necessary thereto, it shall have the power to issue certificates of public convenience and necessity. The Commission shall determine that proposed construction will promote the public convenience and necessity only if the utility demonstrates: (1) that the proposed construction is necessary to provide adequate, reliable, and efficient service to its customers and is the least-cost means of satisfying the service needs of its customers; (2) that the utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof; and (3) that the utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers."

Q. Has Citizens demonstrated that the proposed construction of water/sewer extensions are needed to serve the new parcels in order to provide adequate, reliable, and efficient service to the customer?

A. Yes. The Company has demonstrated that the proposed construction of water and/or sewer extensions is needed to service the areas in order to provide adequate, reliable, and efficient service to the customers.

Citizens is requesting a certificate for parcels either adjacent to or completely surrounded by Citizen's current certificated water/sewer service area. Currently there is no other water or sanitary sewer utility serving the proposed certificated areas.

Q. Has the Company demonstrated that the proposed extension of services is the least-cost method of providing water and/or sewer service to customers in the proposed areas?

A. Yes. Mr. Khan explains in his direct testimony that the most cost-efficient method is "...for an existing utility in the area to extend its mains rather than have a new entity come into the area to establish service." (Khan, p. 6) I agree with his assessment and further believe that another entity's duplication of facilities, rather than extension of mains, would be cost prohibitive since these parcels are contiguous to the existing Citizens service area.

Q. Has Citizens demonstrated that it is financially, operationally and capable of providing quality and reliable service to the area?

A. Yes, they have. Citizens has established that it is capable of managing and supervising these services. They have the ability to provide adequate, reliable, efficient, and least-cost services for the existing water facilities, as well as any future construction. Citizens has consistently

demonstrated that its water and sewer systems are well operated and its equipment is well maintained. In my opinion, Citizens Utility Company is a strong national firm with resources for operations and plant facilities that are available when and if needed.

AGREEMENT

Q. Have you reviewed the Agreements between the developer(s) and Citizens, which was provided in response to Staff's DR WD 1.15?

A. Yes.

Q. Under which provisions of the Public Utilities Act is the Company requesting approval of the Agreement between the developers and Citizens?

A. Section 9-102, paragraph 3 of the Act which states in part:

"Every public utility shall file with the Commission copies of all contracts, agreements or arrangements with other public utilities, in relation to any service, product or commodity affected by the provisions of this Act, to which it may be a party, and copies of all other contracts, agreements or arrangements with any other person or corporation affecting in the judgment of the Commission the cost to such public utility of any service, product or commodity."

Also Section 9-104 of the Act, which states in part:

190 "No public utility shall undertake to perform any service or to furnish
191 any product or commodity unless or until the rates and other
192 charges and classifications, rules and regulations relating thereto,
193 applicable to such service, product or commodity, have been filed
194 and published in accordance with the provisions of this Act."
195

196 **Q. What are the requirements for a developer and/or a customer**
197 **requesting a main extension from a utility?**

198 A. Developers and customers requesting water service, which requires a
199 main extension, would be governed by 83 Ill Adm. Code Part 600. Section
200 600.370, "Service to New Customers." The section outlines all terms and
201 conditions for water main extension(s) being made by prospective
202 customer(s) and the Company.
203

204 **Q. In your opinion, is the Agreement reasonable for the water facilities**
205 **installed by the developers and/or customers?**

206 A. In my opinion, the Agreement for the water facilities is reasonable. It
207 complies with Section 600.370, as also stated by Mr. Kahn on page 7 of
208 his direct testimony.
209

210 **Q. In your opinion, is the Agreement reasonable regarding the sewer**
211 **facilities installed by the developers and being purchased by**
212 **Citizens?**

213 A. No. In my opinion the Agreement between the developers and Citizens is
214 unreasonable, as it does not include a refund provision for the sewer

215 facilities as customers are attached, even though Mr. Kahn has testified
216 (p. 7) that the improvements will be financed in accordance with Rule 600.
217 I have supported and testified in other cases that the developer should
218 advance the funds for the construction of the sewer facilities.

219
220 However, the advances should be subject to refunds. In developing the
221 appropriate level of refunds it is necessary to consider the purpose of a
222 public utility. The purpose of a public utility is to permit a group of
223 investors to make an investment in a necessary utility service, provide that
224 service, recover reasonable operating expenses, and then earn a
225 reasonable return on that investment. Regulation serves as a
226 replacement for competition, which is not practical for most utility services.
227 I do not think that regulation is intended to aid a utility in accumulating
228 significant assets, through little or no investment by its stockholders.

229
230 Electric and gas utilities make an investment and provide a necessary
231 service. In most cases, electric and gas utilities do not require a
232 developer to contribute or even advance funds for the cost of facilities in
233 order to have service installed in a subdivision. Electric and gas utilities
234 make an investment in a utility plant, provide a necessary service, and
235 earn a return on their investment.

237 Water and sewer utilities have been treated somewhat differently than
238 electric and gas utilities due to the high level of investment per customer
239 for water/sewer utilities and the predominance of municipal-owned utilities,
240 which typically require a developer to contribute all the facilities plus some
241 amount toward the backbone plant. However, there is a difference
242 between investor and municipally owned utilities that should not be
243 ignored in deciding the appropriate level of investment by a water/sewer
244 utility.

245
246 The difference between an investor-owned system and a municipally
247 owned system is that with an investor-owned system, the investors own
248 the system and can sell their assets and keep any gain realized on those
249 assets. If a municipality sells its utility assets, any gain realized accrues to
250 the benefit of the customers (the citizens of that municipality). The
251 potential for a gain to the stockholders of an investor-owned system is
252 tremendous when all the assets are acquired as a result of contributions
253 by developers and/or customers. Generally, regulation should not be such
254 that it promotes and encourages the potential for such gains while
255 simultaneously decreasing the investor's liability in financing the operation
256 and increasing the likelihood for poor quality of service.

258 Under the Company's proposal, it gains approximately \$907,265 of sewer
259 facilities without making any investment. Therefore, I am recommending
260 that Citizens provide refunds to developers for the sewer facilities. The
261 refund should be based on the current percentage that Citizens has
262 invested in their other sewer facilities. I am also recommending that
263 Citizens provide that information in their rebuttal testimony and all
264 supporting documents developing the percentage amount.
265

266 **Q. Could you provide a recent proceeding where you testified that**
267 **refunds should be made for sewer facilities and the outcome of the**
268 **proceeding?**

269 A. Citizens certificate case, Docket No. 00-0194, was the most recent
270 proceeding where I testified that refunds should be made for sewer
271 facilities. On April 25, 2001, the Commission approved an Order granting
272 a Certificate that required refunds for sewer facilities. The Company has
273 appealed the Order to the Appellate Court of Illinois for the Second
274 District. As of submitting this testimony, no decision has been received by
275 the Commission concerning the appeal.
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277 **Q. Can you summarize your recommendations concerning this filing?**

278 A. Based upon my testimony, I recommend the Commission find the
279 following:

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1. The Commission approves the request for the Certificate;
 2. The Commission require the petitioner to refund to the customers the advances for sewer facilities; and,
 3. The Commission find that the rate, rules, and conditions of service for the new customers in DuPage, Sante Fe and West Suburban areas, under this Certificate, shall be the same as those currently on file with the Commission that are applicable to the existing customers in these same areas.

289 **Q. Does this conclude your direct testimony?**

290 **A. Yes, it does.**